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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s) : Wong et al.
Serial No. : 09/854,111
Filing Date : May 11, 2001
For : System and Method for Adapting Files for Backward Compatibility
Group Art Unit: : 2193
Examiner : Jason D. Mitchell

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By: <i>MJ</i>	Date: April 26, 2006
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TRANSMITTAL

In support to the Notice of Appeal filed February 27, 2006 and the Advisory Action dated January 26, 2006, transmitted herewith please find an Appeal Brief for filing in the above-identified application. Please charge the Credit Card of **Fay Kaplun & Marcin, LLP** in the amount of \$500.00 (PTO-Form 2038 is enclosed herewith). The Commissioner is hereby authorized to charge the **Deposit Account of Fay Kaplun & Marcin, LLP NO. 50-1492** for any additional required fees. A copy of this paper is enclosed for that purpose.

Dated: April 26, 2006

Respectfully submitted,

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of:)	
)	
Edwin Wong et al.)	Group Art Unit: 2193
)	
Serial No.: 09/854,111)	Examiner: Jason D. Mitchell
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Filed: May 11, 2001)	Board of Patent Appeals and
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APPEAL BRIEF UNDER 37 C.F.R. § 41.37

In support of the Notice of Appeal filed February 27, 2006, and pursuant to 37 C.F.R. § 41.37, Appellant presents their appeal brief in the above-captioned application.

This is an appeal to the Board of Patent Appeals and Interferences from the Examiner's final rejection of claims 1-16 in the final Office Action dated November 1, 2005.

The appealed claims are set forth in the attached Claims Appendix.

1. Real Party in Interest

This application is assigned to WindRiver Systems, Inc., the real party in interest.

2. Related Appeals and Interferences

There are no other appeals or interferences which would directly affect, be directly affected, or have a bearing on the instant appeal.

3. Status of the Claims

Claims 1-16 were rejected in the Final Office Action dated November 1, 2005. Claim 7 had been amended after final rejection to incorporate the limitations of claim 9, and claim 9 had been canceled after final rejection. The amendment after final was not entered, thus the rejection of claims 1-16 is being appealed.

4. Status of Amendments

After the November 1, 2005 final Office Action, the applicants submitted an amendment to claim 7 to incorporate claim 9 into claim 7. This amendment was not entered. All amendments submitted by the appellants after the June 27, 2005 non-final Office Action have been entered. There were no amendments submitted after the January 26, 2006 Advisory Action.

5. Summary of Claimed Subject Matter

The present invention as recited in claim 1 is directed to a system comprising a processor adapted to execute a software package, wherein the software package comprises a

receiving module determining a format of each of a plurality of original files. (*See Specification*, p. 15, lines 11-15). The system further comprises a converter module applying a converter function corresponding to the file format of each of the original files to create new files in a converted file format, wherein the converter module includes an extensible set of converter functions and the converter function is selected from the extensible set. (*See Id.*, p. 15, line 25 – p. 16, line 4).

The present invention as recited in claim 7 is directed to a system comprising an application module to perform functions, wherein the application module uses information contained in a configuration file to perform the functions. (*See Id.*, p. 7, lines 18-21). The system also includes a conversion module applying a converter function to the configuration file to convert the configuration file from a first format incompatible with the application module to a second format compatible with the application module, wherein the conversion module includes an extensible set of converter functions and the converter function is selected from the extensible set. (*See Id.*, p. 7, line 18 – p. 8, line 6).

The present invention as recited in claim 12 is directed to a method of converting an original file from a plurality of formats, wherein the method comprises the steps of reading a format of the original file, applying to the original file a converter function corresponding to the format of the original file, wherein the converter function is one of an extensible plurality of converter functions, and saving the original file in a new file which is in a converted file format created by the application of the corresponding converter function. (*See Id.*, p. 13, line 24 – p. 14, line 19).

6. Grounds of Rejection to be Reviewed on Appeal

I. Whether claims 1-16 are unpatentable under 35 U.S.C. § 103(a) as obvious over U.S. Patent No. 6,704,736 to Rys et al. (“the Rys patent”) in view of U.S. Patent No. 6,662,186 to Esquibel et al. (“the Esquibel patent”).

7. Argument

I. The Rejection of Claims 1-16 Under 35 U.S.C. § 103(a) as Being Obvious Over U.S. Patent No. 6,704,736 to Rys et al. in View of U.S. Patent No. 6,662,186 to Esquibel et al. Should Be Reversed.

A. The Examiner's Rejection

In the final Office Action, the Examiner rejected claims 1-16 under 35 U.S.C. § 103(a) as being unpatentable over the Rys patent in view of the Esquibel patent. (*See 11/01/05 Office Action*, p. 4, lines 12-14).

The Rys patent discloses a system and a method for transforming data between hierarchical information and a rowset. (*See the Rys patent*, Abstract). The method taught by the Rys patent is for transforming hierarchical information into a rowset and for transforming the rowset into hierarchical data. (*See Id.*, col. 4, line 65 – col. 5, line 4). In order to perform this transformation, the Rys patent also includes a parser to process the data to be transformed between file types and stores the data in an active store. (*See Id.*, col. 5, lines 43-55). The parser converts the hierarchical information from the active store into a format that is capable of being accessed and processed by a query processor. (*See Id.*, col. 6, lines 16-18). The query processor receives a query from a process, and in turn, processes the hierarchical information in the active store in order to return a rowset to the process. (*See Id.*, col. 6, lines 47-52).

The Esquibel patent discloses a system and method for propagating data from one file format and determining whether the file can be opened by a requesting application. (*See the Esquibel patent*, Abstract). The data propagation system includes a process in communication with a format interpreter, and the process is invoked each time an application is launched. (*See Id.*, col. 3, lines 42-45). When a file is accessed by the process, the process determines the file extension associated with the file. (*See Id.*, col. 4, lines 25-40). If the extension is recognized by the process, the process attempts to open the file in order to interpret information within the file. (*See Id.*). In accordance with the recognized format, the process will analyze a header of the file and then open the file. (*See Id.*) A file transfer module may be attached or appended to the file. (*See Id.*, col. 6, lines 1-26). To reformat the file, a file transfer module includes logic that uses information to convert the file from one format to another. (*See Id.*) If a file does not include a transfer module, the user must attach a module to the file to allow for conversion. (*See Id.*, col. 6 lines 39-52, and col. 7 lines 19-54).

B. The Rys Patent Does Not Disclose “a Converter Module Applying a Converter Function Corresponding to the File Format of Each of the Original Files to Create New Files in a Converted File Format”
as Recited In Claim 1.

The Examiner asserts that the Rys patent discloses a converter module applying a converter function corresponding to the file format of each of the original files to create new files in a converted format. (*See 11/01/05 Office Action*, p. 4, lines 15-18). However, this assertion is incorrect. To anticipate the converter module component of claim 1 of the present application, the Examiner relies on the “parser 307” of the Rys patent. (*See Id.*) According to the Rys patent, the parser “processes” an XML data file of a computerized system. (*See the Rys Patent*, col. 5, lines 29-50). The act of processing defined as:

The parser 307 *converts* XML data file 205 into a format that is capable of being efficiently accessed and processed by query processor 311. For example, in one embodiment of the present invention, XML data file 205 is stored as tables in active store 309. Tables are efficiently accessed and processed by query processor 311. Alternatively, an XML data file 205 is stored in an internal representation such as the document object model (DOM) format in the active store 309.

(Emphasis added). (*See Id.*, col. 6, lines 16-24).

The process of converting an XML data file into a format such as a DOM format is not equivalent to “applying a converter function corresponding to the file format of each of the original files *to create new files* in a converted file format” as recited in claim 1 of the present application. The conversion of a file from one format to another format will only reformat the given file. There is no creation of a new file. The old format within a particular file is replaced with the new format within the same file. Thus, as the process of the Rys patent “transforms hierarchical information into a rowset” or “transforms a rowset into hierarchical information,” the previous format of the original file will no longer be available. This would prevent the original format from being made available for reference purposes during a subsequent conversion. In addition, the newly converted files are limited to be accessed only by an application that is compatible with the format of the latest conversion.

According to the present application, the converter function that is applied will correspond to the file format of each of the original files. Since the converter functions correspond to the file format, any reformatting of original file formats into converted formats would eliminate the references to the corresponding “original” converter function. Therefore the process according to the Rys patent would teach away from the present application. Converting the data file, as opposed to creating a new converted file while retaining the original

file, would diminish the number of previous converter functions in an extensible set that correspond to the original, or previous, file formats. In effect, the conversion process would gradually decrease the system's ability to maintain backwards compatibility as the original corresponding file formats are eliminated through conversion. The importance of maintaining previous converter functions is addressed in the Specification of the present application as follows:

[The present invention] allows developers to change configuration file formats for new releases of application program 130 and continue to support previous configuration file formats allowing the newer releases of application program 130 to be backward compatible with previous releases. If the developer decides to change the configuration file format, DOM converter 120 would include a new function to convert the new file format into the DOM format. However, any previous converter functions may be retained, allowing application program 130 access to information in any of these previously supported formats.

(*See Specification*, p. 10, lines 16-23).

Furthermore, the present invention allows for greater compatibility with various applications. Since the present application maintains both the original file in the original format and the newly created file in the converted format, the file may be accessible to multiple applications that use different file formats. The file is able to maintain compatibility with both an older version of the application and the latest version of the same application, regardless of the fact that the latest version utilizes a different file format. The conversion process of the Rys patent would limit the file to only be compatible a single version of an application using the file format of the most recent conversion. Once the original file format is converted, the converted file is no longer accessible to an application utilizing the original file format.

It is respectfully submitted that the Rys patent does not teach or suggest “a converter module applying a converter function corresponding to the file format of each of the original files *to create new files* in a converted file format” as recited in claim 1. In addition, it is important to note that the Examiner acknowledged that the Rys patent fails to disclose “a receiving module determining a format of each of a plurality of original files” as also cited in claim 1 of the present invention. (*See 11/01/05 Office Action*, p. 4, lines 19-21). Thus, the Applicants respectfully submit that Rys patent fails to anticipate either of the two components, namely the receiving module or the converter module, of the present application.

C. The Esquibel Patent Does Not Disclose “a Converter Module Applying a Converter Function Corresponding to the File Format of Each of the Original Files to Create New Files in a Converted File Format, Wherein the Converter Module Includes an Extensible Set of Converter Functions and the Converter Function is Selected from the Extensible Set” as Recited In Claim 1.

The Examiner further asserts that the Esquibel patent discloses an extensible set of converter functions from which the converter function is selected. (*See Id.*, p. 4, line 20 – p. 5, line 3). However, this assertion is also incorrect. To anticipate an extensible set of converter functions from which the converter function is selected of claim 1 of the present application, the Examiner relies on the disclosure that various file formats can be installed and converted by an appropriate file conversion intermediary. (*See Id.*) According to the Esquibel patent, “the contents, or inventory, of the format interpreter are chosen so as to enable the data propagation logic to access the appropriate file conversion intermediary to *convert* a file from one format to another.” (Emphasis added). (*See the Esquibel patent*, col. 4, lines 43-47). Esquibel further states “many file formats... can be installed in the format interpret for use by the data propagation logic...” (*See Id.*, col. 4, lines 49-56).

The Examiner appears to equate “appropriate file conversion intermediary” of Esquibel disclosure to the “converter module” of the present application. However, the file conversion intermediary does not perform an equivalent function as the claimed converter module. Specifically, the file conversion intermediary *converts* a file from the prior format to another format. The file conversion intermediary does not “create new files in a converted format” as recited by claim 1 of the present application. Similar to the discussion described above in detail regarding the Rys patent, the conversion of a file format is distinct from the creation of a new file in a converted format. The conversion of file format will transform the original format into a converted format, thereby eliminating the original format. In contrast, the creation of a new file in a converted format will retain both the original format and the converted format. Thus, any application utilizing the original file format will maintain access to the original file even after the converter module creates new files. This would not be the case for the file conversion intermediary of the Esquibel disclosure. The Esquibel patent would convert the file into a converted file format without retaining the original file format of the file prior to conversion. Thus, the conversion would limit the accessibility of the file to applications utilizing the format of the latest conversion by the file conversion intermediary.

Furthermore, the Esquibel patent does not disclose nor suggest, “the converter module includes *an extensible set of converter functions* and the converter function is selected from the extensible set” as recited in claim 1. According to the Esquibel patent, as described above, various file formats can be installed in a format interpreter for use by the data propagation logic to access the appropriate file conversion intermediary. (*See Id.*, col. 4, lines. 41-58). That is to say, the format interpreter must be supplied with a particular file format, wherein the file format is forwarded to be used by the data propagation logic to enable the conversion process.

(*See Id.*) The Esquibel patent further discloses, “any file conversion intermediary can be stored and available for use in format interpreter.” (*See Id.*) As discussed above, the converter function of the present application is not equivalent to, nor taught by, nor suggested by, the file conversion intermediary of the Esquibel patent. Even assuming the file conversion intermediary anticipates the converter function, the storage of the file conversion intermediary is not equivalent to a converter module including *an extensible set of converter functions*. While the Esquibel patent discloses that many formats may be installed in the format interpreter, the Esquibel patent fails to teach or suggest a plurality of conversion intermediaries includes within the format interpreter, let alone an extensible set of conversion intermediaries. There is no reference within the Esquibel specification to indicate that multiple file conversion intermediaries are stored or may be stored in the format interpreter in order to create an extensible set of converter functions.

In view of the above arguments, it is respectfully submitted that neither the Rys patent nor the Esquibel patent, either alone or in combination, disclose or suggest “a receiving module determining a format of each of a plurality of original files; and a converter module applying a converter function corresponding to the file format of each of the original files to create new files in a converted file format, wherein the converter module includes an extensible set of converter functions and the converter function is selected from the extensible set,” as recited in claim 1. Because claims 2-6 depend from, and, therefore include all of the limitations of claim 1, it is respectfully submitted that these claims are also allowable.

Claim 7 includes substantially the same limitations as claim 1, including “the conversion module includes an extensible set of converter functions and the converter function is selected from the extensible set.” Thus, for the reasons described above with reference to claim

1, it is respectfully submitted that claim 7 is also allowable. Because claims 8-11 depend from, and, therefore include all of the limitations of claim 7, it is respectfully submitted that these claims are also allowable.

Claim 12 includes substantially the same limitations as claim 1, including “applying to the original file a converter function corresponding to the format of the original file, wherein the converter function is one of an extensible plurality of converter functions; and saving the original file in a new file which is in a converted file format created by the application of the corresponding converter function.” Thus, for the reasons described above with reference to claim 1, it is respectfully submitted that claim 12 is also allowable. Because claims 13-16 depend from, and, therefore include all of the limitations of claim 12, it is respectfully submitted that these claims are also allowable.


8. Conclusions

For the reasons set forth above, Appellant respectfully requests that the Board reverse the final rejections of the claims by the Examiner under 35 U.S.C. § 103(a), and indicate that claims 1-16 are allowable.

Respectfully submitted,

Date: April 26, 2006

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CLAIMS APPENDIX

1. A system, comprising a processor adapted to execute a software package, the software package, comprising:
 - a receiving module determining a format of each of a plurality of original files;
 - and
 - a converter module applying a converter function corresponding to the file format of each of the original files to create new files in a converted file format, wherein the converter module includes an extensible set of converter functions and the converter function is selected from the extensible set.
2. The software package according to claim 1, further comprising:
 - an application program to access information in the new files, wherein the application program is compatible with the new files and incompatible with the original files.
3. The software package according to claim 1, wherein the converted file format is a document object model tree.
4. The software package according to claim 1, wherein the converter function includes a text parser.
5. The software package according to claim 1, wherein the original files include a configuration file.

6. The software package according to claim 1, wherein the receiving module determines the format of the original files based on file extensions.

7. A system, comprising:

an application module to perform functions, the application module uses information contained in a configuration file to perform the functions; and

a conversion module applying a converter function to the configuration file to convert the configuration file from a first format incompatible with the application module to a second format compatible with the application module, wherein the conversion module includes an extensible set of converter functions and the converter function is selected from the extensible set.

8. The system according to claim 7, wherein the conversion module includes a plurality of converter functions corresponding to a plurality of file formats, the first format being one of the plurality of file formats.

9. The system according to claim 8, wherein the conversion module includes a receiving element to determine the first format.

10. The system according to claim 7, wherein the second format is a document object model tree.

11. The system according to claim 7, wherein the first format is an extensible markup language.
12. A method of converting an original file from a plurality of formats, comprising the steps of:
 - reading a format of the original file;
 - applying to the original file a converter function corresponding to the format of the original file, wherein the converter function is one of an extensible plurality of converter functions; and
 - saving the original file in a new file which is in a converted file format created by the application of the corresponding converter function.
13. The method of claim 12, further comprising the step of:
 - outputting the new file to an application program which uses information in the new file to configure the application program, wherein the application program is compatible with the new file and incompatible with the original file.
14. The method of claim 12, wherein the converted file format is a document object model tree.
15. The method of claim 12 wherein the plurality of formats of the original files include an extensible markup language.

16. The method of claim 12, wherein the new files are saved in one of random access memory and permanent memory.

EVIDENCE APPENDIX

No evidence has been entered or relied upon in the present appeal.

RELATED PROCEEDING APPENDIX

No decisions have been rendered regarding the present appeal or any proceedings related thereto.